

REMARKS

Claim Rejections

Claims 1-4, 10 and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by McGrath, Jr. (U.S. '793). Claims 1-6 are rejected under 35 U.S.C. §103(a) as being unpatentable over McNabb in view of McGrath, Jr. Claims 7 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to claim 1 and further in view of Huang (U.S. '262). Claim 9 is rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to claim 1 and further in view of Rudys et al. Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to claim 1 and further in view of Birdsell. Claim 13 is rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to claim 1 and further in view of Nishiyama. Claims 14-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to claim 1 and further in view of Sage.

Amendments to Specification

Applicant has amended the Specification as noted above to cure obvious grammatical and idiomatic inaccuracies and to provide proper antecedent basis in the Brief Description of the Drawings of the Specification for Figures 11A-11E and 12A-12E. It is believed that the foregoing amendments to the Specification overcome the outstanding objections thereto. No "new matter" has been added to the original disclosure by the foregoing amendments to the Specification.

Drawing Corrections and No Form PTO-948

Applicant proposes to amend Figures 11A-11E and 12A-12E, as illustrated in red on the attached photocopies. In Figures 11A-11E and 12A-12E, it is proposed to remove the label --Figure 11-- and --Figure 12--, respectively. No "new matter" has been added to the original disclosure by the proposed amendments to these figures. It is believed the foregoing proposed amendments obviate the outstanding objections to the drawings. Approval of the proposed drawing changes is respectfully requested.

New Claims

By this Amendment, Applicant has canceled claims 1-16 and has added new claims 17-29 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims are directed toward a protective cover for a motor vehicle comprising: a cover assembly selectively movable between open and closed positions and having: a cover (1); plurality of adjustable belts (3), each adjustable belt of the plurality of adjustable belts being attached at a first end thereof to the periphery of the cover and having a hook belt fastener (4) connected to a second end thereof; at least two annular sleeves (12), each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; and at least two flexible metal rings (2), one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves.

Other embodiments of the present invention include: each of the each of the at least two annular sleeves includes a strip of cloth (13) sewn to a bottom surface of the cover and forming a tubular space (14) between the strip of cloth and the cover, one metal ring of the at least two flexible metal rings is located in each tubular space; each of the each of the at least two annular sleeves includes an opening (15), one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening; the cover is made of a waterproof fabric; the cover has a size large enough to cover parts of the motor vehicle selected from a group consisting of an engine hood, a windshield, a roof, a rear window, a trunk lid, side windows, and any combination thereof; the at least two flexible metal rings are spaced apart along a length of the cover; each metal ring of the at least two flexible metal rings has a flexible metal wire (21) and a tubular connector (22) connected to each of two opposing ends of the flexible metal wire; each of the plurality of adjustable belts is an extendable elastic cord; each of the plurality of adjustable belts has a buckle (31); each hook belt fastener has a plate (41) having a hook (42) and a through hole (43); a plurality of elastic cords (11) spaced apart and located on a

selected peripheral portion of a periphery of the cover, one elastic cord of the plurality of elastic cords allowing each selected peripheral portion to be selectively moved between a retracted position and an expanded position; a flat profiled bag (5), the cover assembly being selectively stored in the flat profiled bag when in the closed position; and the flat profiled bag includes a shoulder strap (52).

The primary reference to McGrath, Jr. teaches a vehicle cover including a fabric cover (12), a rod (30), clamps (38, 44), and straps (24) with clamps (28).

McGrath, Jr. does not teach at least two annular sleeves; each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves; nor does McGrath, Jr. teach each of the each of the at least two annular sleeves includes an opening, one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening.

It is axiomatic in U.S. patent law that, in order for a reference to anticipate a claimed structure, it must clearly disclose each and every feature of the claimed structure. Applicant submits that it is abundantly clear, as discussed above, that McGrath, Jr. does not disclose each and every feature of Applicant's new claims and, therefore, could not possibly anticipate these claims under 35 U.S.C. § 102. Absent a specific showing of these features, McGrath, Jr. cannot be said to anticipate any of Applicant's new claims under 35 U.S.C. § 102.

The secondary reference to McNabb teaches a cover having extensions (18) and metal rims (20), and straps (22).

McNabb does not teach at least two annular sleeves; each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves; nor does McNabb teach each of the each of the at least two annular sleeves includes an opening, one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening.

The secondary reference to Huang teaches a sunshade having a sheet (12), a narrow strip (26) connected to the sheet (12), and a spring like strip (14) with a connector (16) positioned therein.

Huang does not teach at least two annular sleeves; each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves; nor does Huang teach each of the each of the at least two annular sleeves includes an opening, one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening.

The secondary reference to Rudys et al. teaches a cover having elastic attached to an edge (63, 76).

Rudys et al. do not teach at least two annular sleeves; each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves; nor do Rudys et al. teach each of the each of the at least two annular sleeves includes an opening, one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening.

The secondary reference to Birdsell teaches a load conformable tarp and is cited for teaching an adjusting buckle.

Birdsell does not teach at least two annular sleeves; each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves; nor does Birdsell teach each of the each of the at least two annular sleeves includes an opening, one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening.

The secondary reference to Nishiyama teaches a protective cover and is cited for teaching a locking element body (25) having a slot (29) and a locking portion (27).

Nishiyama does not teach at least two annular sleeves; each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves; nor does Nishiyama teach each of the each of the at least two annular sleeves includes an opening, one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening.

The secondary reference to Sage teaches a tow shield and is cited for teaching a storage bag (70).

Sage does not teach at least two annular sleeves; each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves; nor does Sage teach each of the each of the at least two annular sleeves includes an opening, one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening.

Even if the teachings of McGrath, Jr., McNabb, Huang, Rudys et al., Birdsell, Nishiyama, and Sage were combined, as suggested by the Examiner, the resultant combination does not suggest: at least two annular sleeves; each of the at least two annular sleeves being spaced apart from an adjacent annular sleeve and spaced apart from the periphery of the cover; one metal ring of the at least two flexible metal rings being positioned within each of the at least two annular sleeves; nor does the combination suggest each of the each of the at least two annular sleeves includes an opening, one metal ring of the at least two flexible metal rings is selectively inserted and removed through each opening.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over

40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either McGrath, Jr., McNabb, Huang, Rudys et al., Birdsell, Nishiyama, or Sage that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither McGrath, Jr., McNabb, Huang, Rudys et al., Birdsell, Nishiyama, nor Sage disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.


Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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Application No. 10/649,810

IN THE DRAWINGS

Please amend Figures 11A-11E and 12A-12E as illustrated in red on the attached photocopies.